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93D CONGRESS { HOUSE OF REPRESENTATIVES } REPORT
1st Session } { No. 93-214

INSURANCE COVERAGE FOR U.S. NATIONALS EMPLOYED BY FEDERAL GOVERNMENT

MAY 17, 1973.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. DULSKI, from the Committee on Post Office and Civil Service,
submitted the following

REPORT

[To accompany H.R. 3801]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 3801) to extend civil service Federal employees group life insurance and Federal employees health benefits coverage to U.S. nationals employed by the Federal Government, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

This legislation will extend to U.S. nationals, who are Federal employees, the rights and benefits of the Federal employees' group life insurance and health benefits programs.

COMMITTEE ACTION

This legislation, which is based on an official recommendation of the U.S. Civil Service Commission, was ordered reported by unanimous voice vote of the committee.

STATEMENT

As originally enacted, the pertinent provisions of the Federal Employee's Group Life Insurance Act and the Federal Employees' Health Benefits Act (since codified as sections 8701(a)(B) and 8901(1)(ii) of title 5, United States Code, respectively, excluded noncitizen employees of the Federal Government whose permanent duty stations were outside the United States.

These provisions were amended by Public Law 91-418, effective September 25, 1970, to extend such coverage to previously excluded noncitizens employed in the Canal Zone. That amendment, however, had no application to noncitizens or U.S. nationals employed by the Government in other worldwide areas.

Under 8 United States Code 1408, a person born in an outlying possession of the United States is a national, but not a citizen of the United States. Thus these noncitizens are barred from life insurance and health benefits coverage, except where federally employed in the United States or in the Panama Canal Zone.

It is estimated that there are approximately 200 U.S. nationals employed outside the United States by various agencies of the Government. In the judgment of the committee, these nationals and those to be employed in the future at whatever duty station should be accorded the same treatment as the Congress extended in 1970 to non-citizen employees in the Panama Canal Zone.

ANALYSIS OF H.R. 15659

Section (a) of the bill amends section 8701(a)(B) of title 5, United States Code, relating to employees who are excluded from coverage under the life insurance provisions of chapter 87 of title 5. The effect of the amendment is to extend the life insurance benefits of chapter 87 to U.S. nationals who are Federal employees.

Section (b) of the bill amends section 8901(1)(ii) of title 5, United States Code, to extend the health insurance benefits of chapter 89 of title 5 to U.S. nationals who are Federal employees.

Under the existing provisions of law, a U.S. national who is employed by the Federal Government is not eligible for life insurance benefits (chapter 87) or health insurance benefits (chapter 89) if his permanent duty station is located outside the United States and the Panama Canal Zone. The amendments made by this legislation will extend such benefits to U.S. nationals regardless of the locations of their permanent duty stations. An employee who is neither a citizen nor a national of the United States will continue to be ineligible for life and health insurance benefits under title 5 if employed outside the United States and the Panama Canal Zone.

The amendments made by this bill are effective on the date of enactment. However, the actual dates on which coverage is extended to the concerned employees will be fixed in accordance with instructions to be issued by the Civil Service Commission.

COST

The inclusion of these employees under the life insurance and health benefits programs will entail additional annual Government costs of approximately \$300 per person for a total not in excess of \$60,000 for each of the next 5 fiscal years.

AGENCY REPORT

This legislation is based upon an official recommendation by the Chairman of the U.S. Civil Service Commission. The official recom-

mendation and subsequent correspondence from the Civil Service Commission are set forth below.

DEPARTMENTAL REPORT

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., January 18, 1973.

Hon. CARL ALBERT,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: The Commission submits for the consideration of the Congress, and recommends favorable action on, the attached legislative proposal which provides that United States nationals who are Federal employees shall be extended the same rights and benefits as are presently provided United States citizens employed by the Federal Government.

Section 1408 of title 8, United States Code, defines nationals, in pertinent part, as follows: "Unless otherwise provided in section 1401 of this title, the following shall be nationals, but not citizens of the United States at birth: (1) a person born in an outlying possession of the United States on or after the date of formal acquisition of such possession * * *."

As originally enacted, provisions in the Federal Employees' Group Life Insurance Act and the Federal Employees Health Benefits Act (now codified as 5 U.S.C. 8701(a)(B) and 5 U.S.C. 8901(1)(ii), respectively) excluded from their coverage U.S. nationals by barring coverage of noncitizen employees whose permanent duty station is outside the United States. The question of whether as a matter of policy U.S. nationals should be so excluded came into sharp focus in 1970 when it was found that the National Oceanic and Atmospheric Administration (NOAA) at Pago Pago had permitted six American Samoan employees to participate in these programs. On April 27, 1970, the Civil Service Commission issued a bulletin (see enclosed copy of Federal Personnel Manual Bulletin No. 300-26) which determined that U.S. nationals employed by Federal agencies outside the United States are not entitled to life insurance and health benefits. As a result, these six American Samoans had their life insurance and health benefits coverage terminated.

The draft legislation would have the effect of extending coverage to these six American Samoan employees as well as an estimated 2,000 U.S. nationals employed by the Federal Government at permanent duty stations outside the United States. Currently American Samoa and Swains Island are the only areas under U.S. jurisdiction whose citizens are nationals rather than citizens of the United States. To the best of our knowledge, the Federal employees affected by this legislation would all be American Samoans mostly employed in American Samoa. However, we believe the draft legislation amending the laws should be general and should include those U.S. nationals now employed or someday to be employed at another duty station.

Section 3 of Public Law 91-418, effective September 25, 1970, extended coverage under the Federal Employees' Group Life Insurance and Federal Employees Health Benefits laws to formerly excluded noncitizen employees whose permanent duty station is in the Panama

Canal Zone. It would appear that U.S. nationals should be entitled to the same benefits.

Assuming the draft bill is enacted, the additional annual cost to extend life insurance and health benefits to these employees would be approximately \$604,000.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this draft bill to the Congress.

A similar letter is being sent to the President of the Senate.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
Chairman.

[U.S. Civil Service Commission Bulletin]

WASHINGTON, D.C., April 27, 1970.

Bulletin No. 300-26.

Subject: Applicability of Various Statutes to U.S. Nationals.

Heads of Agencies and Independent Establishments:

This bulletin is to alert you to the exclusion of United States nationals (referred to hereinafter as nations) from certain Federal personnel statutes.

Section 1408 of title 8, United States Code, defines nationals, in significant part, as follows: "Unless otherwise provided in section 1401 of this title, the following shall be nationals, but not citizens, of the United States at birth: (1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession * * *."

Under the above definition, American Samoans and Swains Islanders are, as a general rule, nationals and not citizens of the United States.

By reason of the fact that some statutes exclude from their coverage noncitizens whose permanent duty station is outside a State or the District of Columbia, nationals are excluded under those statutes. Specifically, the following statutes have language that excludes nationals from coverage:

5 U.S.C. 5102(e)(11)—classification of positions.

5 U.S.C. 8701(a)(B)—life insurance.

5 U.S.C. 8901(1)(ii)—health insurance.

Some statutes and regulations also exclude "aliens", e.g., 5 U.S.C. 6301(2)(vii) and 5 CFR 331.201(a)(7); however, as the law (8 U.S.C. 1101(a)(3)) defines an alien to mean "any person not a citizen *or national* of the United States" we do not consider that the reference to or exclusion of an alien includes a national. (Emphasis added.)

With respect to 5 CFR 338.101 (§ 338.101 of the civil service regulations, "Citizenship Requirements"), the nationals to whom we refer owe permanent allegiance to the United States and are, accordingly, eligible for entry into the competitive service.

It has come to our attention that some departments and agencies are treating these nationals as citizens for the purpose of the statutes cited above. Future coverages of these nationals should not be extended

when inconsistent with the law; and any coverages improperly extended in the past should be promptly corrected.

NICHOLAS J. OGANOVIC,
Executive Director.

U.S. CIVIL SERVICE COMMISSION,
BUREAU OF RETIREMENT, INSURANCE, AND
OCCUPATIONAL HEALTH,
Washington, D.C., April 25, 1973.

Hon. THADDEUS J. DULSKI,
*Chairman, Committee on Post Office and Civil Service, House of
Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your letter of April 12 concerning the Commission's legislative proposal, submitted to Congress on January 18, 1973, and currently pending before your committee as H.R. 3801, to extend civil service Federal employees group life insurance and Federal employees health benefits coverage to U.S. nationals employed by the Federal Government.

On further discussion with the Department of the Interior, it has become apparent that due to a misunderstanding, the Commission was incorrectly advised as to the number of U.S. nationals employed by the Federal Government at permanent duty stations outside the United States. The 2,000 figure quoted in the Commission's previous letter of transmittal is believed to have included federally employed natives of the Pacific trust territories administered by the United States under the United Nations trusteeship system. That figure is considerably larger than the actual number of employees who would be affected by H.R. 3801 since natives of the trust territories are aliens rather than U.S. nationals. However, the exact number of nationals is unknown.

While the Commission compiles various statistical reports of Federal civilian employees by geographic location, these do not distinguish the relatively small number of U.S. nationals from other noncitizen employees. Knowledgeable sources in our San Francisco regional office report that the number of nationals federally employed outside the United States is not in excess of 200. Most of these nationals are employed at locations in the Pacific other than Samoa. There are only an estimated 50 employed on Samoa itself.

Although under the circumstances the additional annual cost to extend life insurance and health benefits coverage to these employees cannot be accurately estimated, the cost of providing these benefits would be approximately \$300 per person.

Sincerely yours,

ANDREW E. RUDDOCK,
Director.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is

enclosed in black brackets, new matter is printed in italics, existing law
in which no change is proposed is shown in roman) :

TITLE 5, UNITED STATES CODE

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CHAPTER 87.—LIFE INSURANCE

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§ 8701. Definition:

- (a) For the purpose of this chapter, "employee" means—
(1) an employee as defined by section 2105 of this title;
(2) a Member of Congress as defined by section 2106 of this title;
(3) a Congressional employee as defined by section 2107 of this title;
(4) the President;
(5) an individual employed by the government of the District of Columbia;
(6) an individual employed by Gallaudet College;
(7) a United States Commissioner to whom subchapter III of chapter 83 of this title applies by operation of section 8331(1)(E) of this title;
(8) an individual employed by a county committee established under section 590h(b) of title 16; and
(9) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

but does not include—

- (A) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;
(B) [a noncitizen] an employee who is not a citizen or national of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone; or
(C) an employee excluded by regulation of the Civil Service Commission under section 8716(b) of this title.

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CHAPTER 89—HEALTH INSURANCE

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§ 8901. Definitions

For the purpose of this chapter—

- (1) "employee" means—
(A) an employee as defined by section 2105 of this title;
(B) a Member of Congress as defined by section 2106 of this title;
(C) a Congressional employee as defined by section 2107 of this title;
(D) the President;

(E) an individual employed by the government of the District of Columbia;

(F) an individual employed by Gallaudet College;

(G) a United States Commissioner to whom subchapter III of chapter 83 of this title applies by operation of section 8331(1)(E) of this title; and

(H) an individual employed by a county committee established under section 590h(b) of title 16;

but does not include—

(i) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(ii) ~~a noncitizen~~ an employee who is not a citizen or national of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone;

(iii) an employee of the Tennessee Valley Authority; or

(iv) an employee excluded by regulation of the Civil Service Commission under section 8913(b) of this title;

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